

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53342; File No. SR-CBOE-2006-08)

February 21, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Volatility Indexes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 20, 2006, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to revise the manner in which the expiration dates for each volatility-based index is determined. The description of this proposed rule filing is available for viewing on CBOE’s Web site (www.cboe.com), at the CBOE’s Office of the Secretary, and at the Commission’s public reference room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule filing is to revise the methodology for determining the expiration dates for options on certain volatility-based indexes that are approved for listing and trading on the Exchange. The Commission previously approved for the Exchange to list and trade options and increased-value options on certain volatility-based securities indexes; specifically, the CBOE Volatility Index (“VIX”), the CBOE Nasdaq 100® Volatility Index (“VXN”), and the CBOE Dow Jones Industrial Average® Volatility Index (“VXD”) (collectively “volatility indexes”).³ Each volatility index, generally, uses the quotes of certain index option series (such as the S&P 500 index) to derive a measure of the volatility of the U.S. equity market. The volatility indexes provide investors with up-to-the-minute market estimates of expected volatility by extracting implied volatilities from real-time index option quotes.

All volatility index options contracts were originally designed to expire on the Wednesday immediately prior to the third Friday of the month that immediately precedes the month in which the options used in the calculation of that index expire. This method was chosen to provide an exercise schedule that is similar to the manner in which most other option contracts expire (i.e., the third Friday of the month). Under this method, during any rolling twelve month

³ See Securities Exchange Act Release No. 49563 (April 14, 2004); 69 FR 21589 (April 21, 2004) (order approving SR-CBOE-2003-40, which allowed CBOE to trade options on the VIX, VXN, and VXD); see also Securities Exchange Act Release No. 49698 (May 13, 2004); 69 FR 29152 (May 20, 2004) (order approving SR-CBOE-2004-09, which allowed CBOE to trade increased-value options on the VIX, VXN, and VXD).

period, in four of those twelve months, options on any volatility index would not expire exactly thirty days prior to the expiration of the options on the index on which that volatility index is based. To illustrate, under the current methodology, an option on the March 2006 VXN would expire on Wednesday, March 16, 2006 because that is the Wednesday immediately prior to the third Friday of March 2006. However, March 16, 2006 is 37 days prior to the date on which options on the Nasdaq 100 Index (“NDX”) expire.

CBOE proposes to revise the methodology by having all volatility index options expire on the “Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the expiring month.” This revised approach will provide consistency in the expiration of options on all volatility indexes by ensuring that every volatility index option will expire exactly thirty days prior to the date on which the index that the volatility index is based.⁴ To illustrate how this new methodology will work using the March 2006 VXN example above, the April 2006 NDX option will expire on Friday, April 21, 2006 and the March 2006 VXN option would expire on Wednesday March 22, 2006, which is exactly 30 days prior to the expiration of the NDX April options. Even though the March 2006 VXN option does not expire during the normal expiration week for all other options, the Exchange believes it is more important that the volatility index options expire consistent with the 30-day volatility measurement period.

⁴ CBOE states that the revised expiration date calculation methodology for options on certain volatility indexes is consistent with the way in which expiration dates for futures on volatility indexes are calculated. Telephone conversation between James Flynn, Attorney, CBOE, and Florence Harmon, Senior Special Counsel, and Geoffrey Pemble, Special Counsel, Division of Market Regulation, Commission, on February 9, 2006.

The Exchange represents that it will provide public disclosures and notifications to its members and the investing public of this change.⁵ The Exchange states that this proposal does not affect the rule text of any existing Exchange rule.⁶

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act⁷ and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.⁸ Specifically, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of Act⁹ that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

⁵ CBOE will issue an information circular to its members to notify them of the changes to the options expiration date calculation methodology contained in this proposed rule change. Telephone conversation between James Flynn, Attorney, CBOE, and Florence Harmon, Senior Special Counsel, and Geoffrey Pemble, Special Counsel, Division of Market Regulation, Commission, on February 9, 2006.

⁶ The original rule filing that allowed CBOE to list volatility-based index options included an exhibit attached to the rule filing, which provided, among other contract characteristics, a description of how the expiration date would be determined. That description was not included in the rule text. See note 1, supra.

⁷ 15 U.S.C. 78a et seq.

⁸ 15 U.S.C. 78(f)(b).

⁹ 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither received nor solicited written comments on the proposal.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2006-08 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2006-08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2006-08 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that CBOE's proposal to revise the methodology for determining the expiration dates for options on certain volatility-based indexes so that such options expire on the "Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the expiring month" is appropriate. As noted by CBOE above, this revised approach will provide consistency in the expiration of options on all volatility indexes by ensuring that every volatility index option will expire exactly thirty days prior to the date on which the index that the volatility index is based, rather than the prior approach under which such options would not expire exactly thirty days prior to the expiration of the options on

¹⁰ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

the index on which that volatility index is based in four of the months in any rolling twelve-month period.

The Exchange has requested accelerated approval of the proposed rule change.¹² The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing in the Federal Register. The proposal is intended to ensure consistency in expiration dates for options on all volatility indexes approved for listing and trading on CBOE with the expiration of the options on the underlying indexes. The Commission does not believe that the Exchange's proposal raises any novel regulatory issues. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹³ to approve the proposed rule change, as amended, on an accelerated basis.

¹² Telephone conversation between James Flynn, Attorney, CBOE, and Florence Harmon, Senior Special Counsel, and Geoffrey Pemble, Special Counsel, Division of Market Regulation, Commission, on February 9, 2006.

¹³ 15 U.S.C. 78s(b)(2).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-CBOE-2006-08) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Nancy M. Morris
Secretary

¹⁴ Id.

¹⁵ 17 CFR 200.30-3(a)(12).